

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

**FILED**

**DEC 13 2005**

CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

ROY OLIVER ARNOLD,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney  
General,

Respondent.

No. 04-74310

Agency No. A95-172-925

MEMORANDUM\*

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted December 5, 2005\*\*

Before: GOODWIN, TASHIMA, and FISHER, Circuit Judges.

Roy Oliver Arnold, a native and citizen of Belize, petitions for review of the Board of Immigration Appeals' ("BIA") summary affirmance without opinion of an Immigration Judge's ("IJ") order of removal. We have jurisdiction pursuant to 8 U.S.C. § 1252. Reviewing "whether substantial evidence supports a finding by

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\* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

\*\* The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

clear and convincing evidence” that Arnold is removable, *Nakamoto v. Ashcroft*, 363 F.3d 874, 882 (9th Cir. 2004), we deny the petition for review.

Substantial evidence supports the IJ’s conclusion that Arnold is removable pursuant to 8 U.S.C. § 1227(a)(3)(D)(i). The record does not compel reversing the determination that Arnold submitted a forged United States Virgin Islands birth certificate as part of a passport application in which he falsely represented himself to be a citizen of the United States. A reasonable factfinder could therefore conclude, under the clear and convincing evidence standard, that Arnold’s actions fall within the prohibitions of 8 U.S.C. § 1227(a)(3)(D)(i) such that he is removable. *See Nakamoto*, 363 F.3d at 882.

Arnold’s due process and regulatory challenges to the BIA’s streamlining procedure are foreclosed by *Falcon Carriche v. Ashcroft*, 350 F.3d 845, 852, 855 (9th Cir. 2003).

Arnold’s contention that the agency was required to examine his family’s prospective hardship is unpersuasive.

**PETITION FOR REVIEW DENIED.**